

## **REMARKS**

### **Claim amendments**

Please cancel claim 26.

### **Interview Summary**

Applicant acknowledges the telephone interview of September 19, 2005 in which the Examiner drew attention to claim 26, which is still pending. In that interview, Applicant agreed to file a supplemental amendment canceling that claim.

Applicant also discussed the omission of the explicit claim of priority under section 119 in the declaration as filed. The Examiner tentatively agreed that the claim of priority under 35 USC 119 was not required because the application was filed under 35 USC 371 and is therefore entitled to the priority date of the German application on that basis, independently of 35 USC 119.

As best understood by Applicant, 35 USC 119 is enabling legislation for the Paris Convention, which requires the U.S. to treat an application filed in a Paris convention country as having been filed in the U.S. on the same day provided that a corresponding U.S. application is filed within one year. In contrast, 35 USC 371 is part of the enabling legislation for a completely different treaty, the Patent Cooperation Treaty, and therefore provides an independent basis for obtaining the priority date of the original German application.

### **Summary**

Now pending in this application are claims 12 and 14-17, of which claim 12 is independent. These claims have been indicated as allowable. Accordingly, the application is now in condition for allowance.

Pursuant to 37 CFR §1.136, applicant hereby petitions that the period for response to the action dated May 5, 2005, be extended for two months including October 5, 2005.

Applicant : Andreas Pechlaner et al.  
Serial No. : 10/089,650  
Filed : April 1, 2002  
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Applicant encloses an extension fee in the amount of \$320, which represents the difference between the fee for a two-month extension and the fee already paid on August 31, 2005 in connection with a petition for a one-month extension.

No additional fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 06-1050, referencing attorney docket "12816-046US1."

Respectfully submitted,

Date: \_\_\_\_\_

9/19/05



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